

REMARKS

Responsive to the Action mailed July 2, 2007, applicants elect Group III and the species of (1) administering CO and (2) organs. Claims 18-20 and 24-45 read on the elected species. This election is made with traverse.

Claims 16-20 and 24-45 are pending in this application. Applicants have canceled claims 1-15 and 21-23 and added new claims 24-45. Support for the new claims can be found throughout the specification and claims as filed, e.g., at pages 4-5 and 35-38. No new matter has been added.

Applicants traverse on the grounds that Groups I, II, and III should be examined together because they are closely related. All of these claims relate to methods of transplanting an organ, tissue, or cells that involve administering nitric oxide and a second treatment to a patient or to an organ or cell removed from a patient. Accordingly, the same body of literature would likely be searched for all of these claims. Moreover, the full scope of claims 16-20 (i.e., prior group 33) has already been searched and found to be allowable, as indicated at page 4 of the *Ex Parte Quayle* action mailed January 11, 2007. Thus, there would seem to be no undue burden on the Examiner to search the subject matter of all of these Groups at the same time. Accordingly, applicants request that Groups I, II, and III be examined together in this application.

Interview Summary

Applicants' representatives (the undersigned and Janis K. Fraser) thank Examiner Yvonne L. Eyler for the courtesy of the telephonic interview held on February 21, 2007.

The claims of the present application and related applications (U.S. Serial Nos. 10/053,535, 10/413,817, 10/439,632, 10/367,277, 10/177,930, 11/401,722, 10/371,666, and 10/455,564) were discussed in general, particularly with regard to their compliance with the enablement requirement.


Examiner Eyler explained that the Office believes that Mayr et al. (Am. J. Resp. and Critical Care Medicine, Vol. 171, p. 354-360, 2005); Ryter et al. (Current Op. in Pharma. Vol. 6, p. 257-262, 2006), Dolinay et al. (in Breath Analysis, p. 203-236), and Choi et al. (Am J. Resp.

and Critical Care Medicine, Vol. 171, p. 318-1319, 2005) raise questions regarding scope of enablement for claims directed to treating human conditions with carbon monoxide. Examiner Eyler also indicated that the issues do not apply to claims drawn to administering CO to organ donors, which claims are pending in this application and U.S. Serial Nos. 10/177,930 and 11/401,722.

No statement made herein is an admission that any claim or invention is not patentably distinct from another. The fees in the amount of \$200 for additional claims are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 13681-012001.

Respectfully submitted,

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